



# House of Representatives

General Assembly

**File No. 288**

February Session, 2012

Substitute House Bill No. 5172

*House of Representatives, April 5, 2012*

The Committee on Labor and Public Employees reported through REP. ZALASKI of the 81st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING STATE MILITARY SERVICE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 27-61 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For military service when ordered out by the Governor, except  
4 when federal pay has been authorized, each [commissioned officer,  
5 warrant officer and enlisted person] member of the armed forces of the  
6 state assigned to a federally recognized National Guard unit in  
7 Connecticut shall be paid at the same rate, including longevity pay and  
8 allowances, as would be authorized if ordered out by federal  
9 authority. [but such rate shall be increased by the amount of ten  
10 dollars for enlisted persons and five dollars for warrant officers and  
11 first and second lieutenants.]

12 (b) For military service when ordered out by the Governor, each  
13 [commissioned officer, warrant officer and enlisted person] member of

14 the armed forces of the state in a unit of the organized militia which is  
15 not federally recognized shall be paid on the same scale as the federal  
16 pay for corresponding grades [in the tables of organization] of the  
17 federally recognized National Guard, [increased by the amount of ten  
18 dollars for enlisted persons and five dollars for warrant officers and  
19 first and second lieutenants] including longevity pay and allowances.

20 (c) Unless otherwise provided by law, the determination of the  
21 corresponding grades in the [organized militia, other than the federally  
22 recognized National Guard] armed forces of the state, shall be made by  
23 the Adjutant General. [Officers, warrant officers and enlisted personnel  
24 of the Connecticut National Guard who attend schools, conferences or  
25 staff or ceremonial exercises by order of the Governor shall be paid  
26 their travel and actual expenses. Commissioned officers serving on  
27 boards or military commissions or attending conferences called by  
28 higher headquarters in or out of the state shall receive pay and  
29 allowance of their grade plus actual expenses.]

30 (d) Each [commissioned and warrant officer, chief petty officer and  
31 enlisted person] member of the naval militia when ordered out by the  
32 Governor, except when federal pay has been authorized, shall receive  
33 for each day's service the same pay and allowances as are prescribed  
34 by the federal government for the corresponding grades of members of  
35 the United States Navy. [but such pay shall be increased by the  
36 amount of ten dollars for enlisted persons and five dollars for chief  
37 petty officers, warrant officers, lieutenants junior grade and ensigns.]

38 (e) Members of the armed forces of the state, with the consent of the  
39 member and the consent of the Governor, may be ordered to perform  
40 military duty, including training, with or without pay and allowances.  
41 Prior to being ordered to perform military duty without pay and  
42 allowances, members of the armed forces shall be notified of their right  
43 to refuse consent at the time the consent required by this subsection is  
44 sought. When performing military duty with pay and allowances, such  
45 member shall be entitled to pay and allowances on the same scale as  
46 the corresponding grades of the federally recognized National Guard.

47 Military duty without pay and allowances shall be, for all purposes  
48 other than for compensation for the duty performed, construed as if it  
49 were duty with pay and allowances.

50 (f) Members of the armed forces detailed from the retired list in  
51 accordance with section 27-54, with the consent of the member and the  
52 consent of the Governor, may be ordered to perform military duty  
53 with or without pay. Prior to being ordered to perform military duty  
54 without pay and allowances, members of the armed forces detailed  
55 from the retired list in accordance with section 27-54 shall be notified  
56 of their right to refuse consent at the time the consent required by this  
57 section is sought. When performing military duty with pay and  
58 allowances, such member shall be entitled to pay and allowances in  
59 their state retired grade on the same scale as the corresponding grades  
60 of the federally recognized National Guard. Military duty without pay  
61 and allowances shall be, for all purposes other than for compensation  
62 for the duty performed, construed as if it were duty with pay and  
63 allowances.

64 Sec. 2. Section 27-67 of the general statutes is repealed and the  
65 following is substituted in lieu thereof (*Effective from passage*):

66 [The commanding officer of any officer, soldier or sailor wounded,  
67 disabled or killed, when such disability or death is incident to the  
68 service, shall immediately make or cause to be made, by one or more  
69 officers detailed for the purpose, full inquiry and report concerning  
70 such injury or death, in writing, through channels to the Adjutant  
71 General, with the names and addresses of qualified witnesses and a  
72 full statement of the testimony of each concerning the nature and  
73 extent of the injury and the manner of its occurrence. Each member of  
74 the armed forces of the state who, when on duty or assembled therefor,  
75 in accordance with orders of competent authority, or when called in  
76 aid of any civil authority, is injured or contracts any disease while in  
77 the performance of his or her duty or assembly therefor, without fault  
78 or neglect on his or her part, and thereby is temporarily or  
79 permanently disabled from continuing to perform his or her usual

80 duties or occupation, shall, during the period of disability, receive  
81 benefits in accordance with the provisions of chapter 568.]

82 (a) As used in this section, "military duty" means the performance of  
83 military service by a member of the armed forces of the state pursuant  
84 to competent state military orders, whether paid or not paid for such  
85 military service, including training, performance of emergency  
86 response missions, and while travelling directly to or returning  
87 directly from the location of such military duty.

88 (b) Except as provided in section 4-165, a member of the armed  
89 forces of the state performing military duty in accordance with section  
90 27-61, as amended by this act, shall be construed to be an employee of  
91 the state for the specific purposes of liability, immunity and being  
92 subject to the jurisdiction of the Workers' Compensation Commission  
93 and shall be compensated in accordance with the provisions of chapter  
94 568 for death, disability or injury incurred while performing such  
95 military duty. A member of the armed forces of the state performing  
96 such military duty shall not be considered an employee of the state for  
97 other purposes.

98 (c) Any member of the armed forces of the state who performs  
99 military duties pursuant to sections 27-17 and 27-18, shall be construed  
100 to be an employee of the state for the specific purposes of liability,  
101 immunity and being subject to the jurisdiction of the Workers'  
102 Compensation Commission and shall be compensated in accordance  
103 with the provisions of chapter 568 for death, disability or injury  
104 incurred while performing such military duties. A member of the  
105 armed forces of the state performing such military duties shall not be  
106 considered an employee of the state for other purposes.

107 (d) Any member of the armed forces of the state performing state  
108 military duty in accordance with sections 27-17, 27-18 or 27-61, as  
109 amended by this act, may collect benefits under the provisions of  
110 chapter 568 based on the salary of the member's employment or the  
111 average production wage in the state, as determined by the Labor  
112 Commissioner under the provisions of section 31-309, whichever is

113 greater, if the member of the armed forces is injured while engaged in  
114 military duties. The provisions of this subsection shall apply only if the  
115 member of the armed forces of the state is unable to perform the  
116 member's regular employment duties.

117 (e) For the purpose of this section, there shall be no prorating of  
118 compensation benefits because of other employment by a member of  
119 the armed forces of the state.

120 Sec. 3. Subsection (f) of section 31-58 of the general statutes is  
121 repealed and the following is substituted in lieu thereof (*Effective from*  
122 *passage*):

123 (f) "Employee" means any individual employed or permitted to  
124 work by an employer but shall not include any individual employed in  
125 camps or resorts which are open no more than six months of the year  
126 or in domestic service in or about a private home, except any  
127 individual in domestic service employment as defined in the  
128 regulations of the federal Fair Labor Standards Act, or an individual  
129 employed in a bona fide executive, administrative or professional  
130 capacity as defined in the regulations of the Labor Commissioner or an  
131 individual employed by the federal government, or any individual  
132 engaged in the activities of an educational, charitable, religious,  
133 scientific, historical, literary or nonprofit organization where the  
134 employer-employee relationship does not, in fact, exist or where the  
135 services rendered to such organizations are on a voluntary basis, or  
136 any individual employed as a head resident or resident assistant by a  
137 college or university, or any individual engaged in baby sitting, or an  
138 outside salesman as defined in the regulations of the federal Fair Labor  
139 Standards Act; or any individual employed by a nonprofit theater,  
140 provided such theater does not operate for more than seven months in  
141 any calendar year; or a member of the armed forces of the state  
142 performing military duty;

143 Sec. 4. Subdivision (9) of section 31-275 of the 2012 supplement to  
144 the general statutes is repealed and the following is substituted in lieu  
145 thereof (*Effective from passage*):

146 (9) (A) "Employee" means any person who:

147 (i) Has entered into or works under any contract of service or  
148 apprenticeship with an employer, whether the contract contemplated  
149 the performance of duties within or without the state;

150 (ii) Is a sole proprietor or business partner who accepts the  
151 provisions of this chapter in accordance with subdivision (10) of this  
152 section;

153 (iii) Is elected to serve as a member of the General Assembly of this  
154 state;

155 (iv) Is a salaried officer or paid member of any police department or  
156 fire department;

157 (v) Is a volunteer police officer, whether the officer is designated as  
158 special or auxiliary, upon vote of the legislative body of the town, city  
159 or borough in which the officer serves;

160 (vi) Is an elected or appointed official or agent of any town, city or  
161 borough in the state, upon vote of the proper authority of the town,  
162 city or borough, including the elected or appointed official or agent,  
163 irrespective of the manner in which he or she is appointed or  
164 employed. Nothing in this subdivision shall be construed as affecting  
165 any existing rights as to pensions which such persons or their  
166 dependents had on July 1, 1927, or as preventing any existing custom  
167 of paying the full salary of any such person during disability due to  
168 injury arising out of and in the course of his or her employment;

169 (vii) Is [an officer or enlisted person of the National Guard or other]  
170 a member of the armed forces of the state [called to active duty by the  
171 Governor while performing his or her active duty service] performing  
172 military duty, whether paid or not paid for such military duty, in  
173 accordance with the provisions of sections 27-17, 27-18 or 27-61, as  
174 amended by this act, while performing such member's military duty;  
175 or

176 (viii) Is elected to serve as a probate judge for a probate district  
177 established in section 45a-2.

178 (B) "Employee" shall not be construed to include:

179 (i) Any person to whom articles or material are given to be treated  
180 in any way on premises not under the control or management of the  
181 person who gave them out;

182 (ii) One whose employment is of a casual nature and who is  
183 employed otherwise than for the purposes of the employer's trade or  
184 business;

185 (iii) A member of the employer's family dwelling in his house; but,  
186 if, in any contract of insurance, the wages or salary of a member of the  
187 employer's family dwelling in his house is included in the payroll on  
188 which the premium is based, then that person shall, if he sustains an  
189 injury arising out of and in the course of his employment, be deemed  
190 an employee and compensated in accordance with the provisions of  
191 this chapter;

192 (iv) Any person engaged in any type of service in or about a private  
193 dwelling provided he is not regularly employed by the owner or  
194 occupier over twenty-six hours per week;

195 (v) An employee of a corporation who is a corporate officer and  
196 who elects to be excluded from coverage under this chapter by notice  
197 in writing to his employer and to the commissioner; or

198 (vi) Any person who is not a resident of this state but is injured in  
199 this state during the course of his employment, unless such person (I)  
200 works for an employer who has a place of employment or a business  
201 facility located in this state at which such person spends at least fifty  
202 per cent of his employment time, or (II) works for an employer  
203 pursuant to an employment contract to be performed primarily in this  
204 state.

205 Sec. 5. Section 27-75 of the general statutes is repealed and the

206 following is substituted in lieu thereof (*Effective from passage*):

207 Memorials to [veteran soldiers, sailors or marines] veterans of the  
208 armed forces of the state or the United States may be placed in state  
209 [armories] military facilities or erected upon [grounds appurtenant  
210 thereto by cities, towns or boroughs] state-owned or controlled  
211 military property, subject to the approval of the Adjutant General and  
212 without expense to the state.

213 Sec. 6. Subsections (b) and (c) of section 5-259d of the general  
214 statutes are repealed and the following is substituted in lieu thereof  
215 (*Effective from passage*):

216 (b) Notwithstanding any provision of the general statutes or any  
217 public or special act, the state shall continue to provide coverage,  
218 under a group hospitalization and medical and surgical insurance plan  
219 sponsored by the state under section 5-259, for the dependents of any  
220 state employee and the state employee who is a member of the armed  
221 forces of any state or of any reserve component of the armed forces of  
222 the United States and who has been called to active service in the  
223 armed forces of any state or the United States for [(1) Operation  
224 Enduring Freedom, (2) Operation Noble Eagle, (3) a related emergency  
225 operation or a military operation whose mission was substantially  
226 changed as a result of the attacks of September 11, 2001, (4) federal  
227 action or state action authorized by the Governor in support of the  
228 federal Department of Homeland Security's Operation Liberty Shield,  
229 military operations that are authorized by the President of the United  
230 States that entail military action against Iraq, or federal action or state  
231 action authorized by the Governor to combat terrorism within the  
232 United States, or (5) federal action or state action authorized by the  
233 Governor or the President of the United States that entails service or  
234 military action as part of Operation Jump Start at the border of the  
235 United States and Mexico] a military operation, war or national  
236 emergency, for the duration of such call-up to active service, provided  
237 such state employee and dependents were covered by the insurance  
238 plan on the date the state employee was called to active service and the

239 state employee continues to pay any amount that the employee was  
240 required to pay for coverage before being called to active service. Any  
241 payment required to be made by the employee for coverage under this  
242 subsection may be deducted from compensation provided under  
243 subsection (c) of this section. The state shall reimburse any state  
244 employee who has paid premiums for the continuation of any such  
245 group hospitalization and medical and surgical insurance plan  
246 between the date such state employee was called to active service and  
247 November 20, 2001. The reimbursement shall be in the amount of the  
248 state's portion of the premiums so paid.

249 (c) Notwithstanding any provision of the general statutes or any  
250 public or special act, any state employee who is a member of the  
251 armed forces of any state or of any reserve component of the armed  
252 forces of the United States and who has been called to active service in  
253 the armed forces of any state or the United States for [(1) Operation  
254 Enduring Freedom, (2) Operation Noble Eagle, (3) a related emergency  
255 operation or a military operation whose mission was substantially  
256 changed as a result of the attacks of September 11, 2001, (4) federal  
257 action or state action authorized by the Governor in support of the  
258 federal Department of Homeland Security's Operation Liberty Shield,  
259 military operations that are authorized by the President of the United  
260 States that entail military action against Iraq, or federal action or state  
261 action authorized by the Governor to combat terrorism within the  
262 United States, or (5) federal action or state action authorized by the  
263 Governor or the President of the United States that entails service or  
264 military action as part of Operation Jump Start at the border of the  
265 United States and Mexico] a military operation, war or national  
266 emergency, shall continue to accrue all vacation time, equivalent leave  
267 time and sick time to which the employee would be entitled if he or  
268 she had continued working in his or her state position during the time  
269 of such active service, and shall be credited with such accrued vacation  
270 time, equivalent leave time or sick time, except that if the accrual of  
271 such vacation time, equivalent leave time or sick time pursuant to this  
272 subsection while on active service would cause the employee to exceed  
273 any limit on leave time pursuant to any provision of the general

274 statutes, the regulations of Connecticut state agencies or a collective  
275 bargaining agreement, the limit shall be temporarily waived to allow  
276 the employee to use the excess leave time before the later of the  
277 following: [(A)] (1) From the date of the state employee's discharge  
278 from active service until the state employee returns to state  
279 employment, [(B)] (2) not later than one hundred twenty calendar days  
280 after the state employee returns to state employment, [(C)] (3) not later  
281 than one hundred twenty calendar days after the state employee is  
282 credited with such excess leave time, or [(D)] (4) for state employees in  
283 teaching or professional positions in Unified School District #1  
284 established pursuant to section 18-99a within the Department of  
285 Correction who were credited with equivalent leave time pursuant to  
286 this section, not later than one year after the employee is credited with  
287 such excess leave time. The employee shall be entitled to a leave of  
288 absence with pay as provided in section 27-33 from the date on which  
289 the employee was called to active service. After the expiration of such  
290 leave of absence with pay, the state employee shall receive part pay for  
291 the duration of such call-up to active service if the compensation  
292 received by the state employee for such active service is less than the  
293 employee's base rate of pay, plus longevity, in the employee's primary  
294 position. The state employee shall not be required to exhaust accrued  
295 vacation time, equivalent leave time or sick time in order to be eligible  
296 for the paid leave of absence and part pay under this subsection. As  
297 used in this section, "equivalent leave time" means leave time classified  
298 as other than vacation time or sick time and includes, but is not limited  
299 to, leave time classified as recess rather than vacation time.

300 Sec. 7. Subsection (a) of section 29-1s of the 2012 supplement to the  
301 general statutes is repealed and the following is substituted in lieu  
302 thereof (*Effective from passage*):

303 (a) (1) Wherever the term "Department of Public Safety" is used in  
304 the following general statutes, the term "Department of Emergency  
305 Services and Public Protection" shall be substituted in lieu thereof; and  
306 (2) wherever the term "Commissioner of Public Safety" is used in the  
307 following general statutes, the term "Commissioner of Emergency

308 Services and Public Protection" shall be substituted in lieu thereof: 1-  
309 24, 1-84b, 1-217, 2-90b, 3-2b, 4-68m, 4a-2a, 4a-18, 4a-67d, 4b-1, 4b-130, 5-  
310 142, 5-146, 5-149, 5-150, 5-169, 5-173, 5-192f, 5-192t, 5-246, 6-32g, 7-169,  
311 7-285, 7-294f to 7-294h, inclusive, 7-294l, 7-294n, 7-294y, 7-425, 9-7a, 10-  
312 233h, 12-562, 12-564a, 12-586f, 12-586g, 13a-123, 13b-69, 13b-376, 14-10,  
313 14-64, 14-67j, 14-67m, 14-67w, 14-103, 14-108a, 14-138, 14-152, 14-163c,  
314 14-211a, 14-212a, 14-212f, 14-219c, 14-227a, 14-227c, 14-267a, 14-270c to  
315 14-270f, inclusive, 14-283, 14-291, 14-298, 14-315, 15-98, 15-140r, 15-  
316 140u, 16-256g, 16a-103, 17a-105a, 17a-106a, 17a-500, 17b-90, 17b-137,  
317 17b-192, 17b-225, 17b-279, 17b-490, 18-87k, 19a-112a, 19a-112f, 19a-  
318 179b, 19a-409, 19a-904, 20-12c, 20-327b, 21a-36, 21a-283, 22a-2, 23-8b,  
319 23-18, 26-5, 26-67b, [27-19a,] 27-107, 28-25b, 28-27, 28-27a, 28-30a, 29-1c,  
320 29-1e to 29-1h, inclusive, 29-1q, 29-1zz, 29-2, 29-2a, 29-2b, 29-3a, 29-3b,  
321 29-4a, 29-6a, 29-7, 29-7b, 29-7c, 29-7h, 29-7m, 29-7n, 29-8, 29-9, 29-10,  
322 29-10a, 29-10c, 29-11, 29-12, 29-17a, 29-17b, 29-17c, 29-18 to 29-23a,  
323 inclusive, 29-25, 29-26, 29-28, 29-28a, 29-30 to 29-32, inclusive, 29-32b,  
324 29-33, 29-36f to 29-36i, inclusive, 29-36k, 29-36m, 29-36n, 29-37a, 29-37f,  
325 29-38b, 29-38e, 29-38f, 29-108b, 29-143i, 29-143j, 29-145 to 29-151,  
326 inclusive, 29-152f to 29-152j, inclusive, 29-152m, 29-152o, 29-152u, 29-  
327 153, 29-155d, 29-156a, 29-161g to 29-161i, inclusive, 29-161k to 29-161m,  
328 inclusive, 29-161o to 29-161t, inclusive, 29-161v to 29-161z, inclusive,  
329 29-163, 29-164g, 29-166, 29-176 to 29-179, inclusive, 29-179f to 29-179h,  
330 31-275, as amended by this act, 38a-18, 38a-356, 45a-63, 46a-4b, 46a-170,  
331 46b-15a, 46b-38d, 46b-38f, 51-5c, 51-10c, 51-51o, 51-277a, 52-11, 53-39a,  
332 53-134, 53-199, 53-202, 53-202b, 53-202c, 53-202g, 53-202l, 53-202n, 53-  
333 202o, 53-278c, 53-341b, 53a-3, 53a-30, 53a-54b, 53a-130, 53a-130a, 54-1f,  
334 54-1l, 54-36e, 54-36i, 54-36n, 54-47aa, 54-63c, 54-76l, 54-86k, 54-102g to  
335 54-102j, inclusive, 54-102m, 54-102pp, 54-142j, 54-222a, 54-240, 54-240m,  
336 54-250 to 54-258, inclusive, 54-259a, 54-260b, and 54-300.

337 Sec. 8. Sections 27-19a, 27-67a, 27-69 and 27-69a of the general  
338 statutes are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>from passage</i>	27-61
Sec. 2	<i>from passage</i>	27-67
Sec. 3	<i>from passage</i>	31-58(f)
Sec. 4	<i>from passage</i>	31-275(9)
Sec. 5	<i>from passage</i>	27-75
Sec. 6	<i>from passage</i>	5-259d(b) and (c)
Sec. 7	<i>from passage</i>	29-1s(a)
Sec. 8	<i>from passage</i>	Repealer section

**VA**      *Joint Favorable Subst. C/R*

LAB

**LAB**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 13 \$</b>	<b>FY 14 \$</b>
Department of Administrative Services - Workers' Comp. Claims	GF & TF- Indeterminate	Indeterminate	Indeterminate
Military Dept.	GF - Savings	Minimal	Minimal

Note: GF=General Fund and TF = Transportation Fund

**Municipal Impact:** None

**Explanation**

The bill may result in an impact to the Department of Administrative Services Workers' Compensation Program<sup>1</sup>. The bill makes changes to the indemnity (wage) portion of workers' compensation benefit for military personnel who are called in to serve the state and in the course of duty experience a workers' compensation qualifying event. It is unlikely this change will have a significant annual impact on the Workers' Compensation Program as the state is currently liable for eligible claims costs for this population. The actual impact to the state program would depend on the total claimants eligible for benefits and their actual earnings at the time of the injury.

Currently, the indemnity portion of a military person's workers' compensation benefit is defined as one of the following: 1) the individual's earnings from their place of employment (this may be the state, military, other, etc.), 2) for individuals with concurrent employment a blended rate is calculated based on wages earned at each employer and the hours worked, or 3) for those unemployed, the lesser of \$233 a week or 75% of the average weekly production wage in

<sup>1</sup> The state's workers' compensation program is a self-insured, pay-as-you-go program

the state.

The bill requires the indemnity benefit to equal the greater of the following: a) the salary of the individual in their present employment or b) the average production wage in the state<sup>2</sup> <sup>3</sup>. The bill does not appear to allow for proration for concurrent employment; it is assumed the wages earned from a single employer would be used to establish the indemnity benefit. The impact on the state for employed claimants would depend on the claimants' actual wages. The impact on the state for unemployed claimants is increased from \$233 per week to \$658 per week.

The bill makes other clarifying and administrative changes to workers' compensation procedures and benefits for service members acting in the service of the state which do not result in a fiscal impact to the state workers' compensation program.

The bill will result in a minimal savings to the Military Department when the state's armed forces are ordered into service by the Governor. The savings are a result of removing \$5 and \$10 daily bonuses for certain members of the armed forces.

### ***The Out Years***

The annualized ongoing fiscal impact for the State's Workers' Compensation Program identified above would continue into the future subject to any changes in the state average production wage.

The annualized ongoing fiscal impact for the Military Department identified above would continue into the future subject to inflation.

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<sup>2</sup> As of May 2011 the average annual production wage in the state is \$34,220. (US Department of Labor, Bureau of Labor Statistics).

<sup>3</sup> For unemployed individuals, the average production wage would be used to determine the indemnity portion of their benefit.

**OLR Bill Analysis**

**sHB 5172**

***AN ACT CONCERNING STATE MILITARY SERVICE.***

**SUMMARY:**

This bill updates and changes several laws pertaining to the state's armed forces personnel and Military Department. It:

1. permits unpaid state military duty for the state's armed forces and its retirees with the consent of both the governor and member;
2. makes changes concerning pay, including elimination of additional state remuneration beyond salary for certain members;
3. gives the state's armed forces the same statutes as state employees for workers' compensation, liability, and immunity purposes when performing state military duty (i.e., under orders of the governor or another state civil authority);
4. repeals two death benefit statutes;
5. changes how certain military service is defined for state employees' benefits; and
6. removes the Military Department from the Department of Emergency Services and Public Protection where it currently is housed for administrative purposes only.

It also makes a change concerning memorials to veterans as well as technical and conforming changes.

EFFECTIVE DATE: Upon passage

**STATE'S ARMED FORCES**

By law, the state's armed forces are the (1) National Guard; (2) organized militia (i.e., the governor's guards, the State Guard, and other military forces the governor as commander-in-chief may designate); and (3) naval militia and marine corps branch of the naval militia, whenever organized (CGS § 27-2).

***Paid and Unpaid State Service***

The bill creates a clear two-track system of paid and unpaid (volunteer) service. It authorizes the state's armed forces members and retirees to be ordered to state military duty, including training, with or without pay with the consent of both the member and the governor.

It specifies that before being ordered to perform voluntary unpaid service, the member or retiree must be notified of the right to refuse to serve unpaid when asked to do so. When performing without pay or allowances, members' and retirees' work still counts for purposes of receiving credit toward retirement and any other benefits, as applicable.

The bill specifies that members and retirees on paid military duty the governor orders receive pay and allowances on the same pay scale and grade as when performing federal duty.

***Pay Rate***

The bill specifies that the state's armed forces, when ordered out by the governor are paid at the same rate as if they were ordered out by federal authority, including for the National Guard and organized militia longevity pay and allowances. It eliminates additional state payments beyond a salary of \$10 for most enlisted members and \$5 for chief petty officers, warrant officers, and junior commissioned officers.

It also specifies that the adjutant general determines the corresponding grades (pay according to rank) for the state's armed forces, including federally recognized National Guard units, to conform pay with federal rates, which is the current practice.

It eliminates a statutory mandate that Connecticut National Guard members (1) be paid for attending schools, conferences, staff or ceremonial exercises when ordered by the governor and (2) who are commissioned officers serving on boards or military commissions or attending conferences that higher headquarters call receive pay and allowances according to their grade (rank), plus expenses.

### **Workers' Compensation**

The bill eliminates a step in current law's state armed forces worker's compensation process, which requires an inquiry and report by the injured or killed member's commanding officer. The bill instead makes a member of the state's armed forces a state employee for purposes of the existing civilian workers' compensation process, liability, and immunity. It specifies that workers' compensation coverage also applies to members who are performing unpaid service. The bill does not include workers' compensation coverage for paid federal duty.

Under the bill, members of the state's armed forces are considered state employees when performing military duty the governor orders, including when called out to assist in containing a riot or civil commotion, or by another civil authority when the governor cannot be reached. (By law, state employees and officers are not liable for damage or injury that is caused within the scope of their employment or by the discharge of their duties as long as they are not wanton, reckless, or malicious (CGS § 4-165).)

The bill specifies that members are not considered state employees for any purpose other than liability, immunity, and being subject to the Workers' Compensation Commission's jurisdiction and compensation for death, disability, or injury while performing state military duty.

**Compensation Rate.** Under the bill, any of the state's armed forces members performing state military duty may collect workers' compensation benefits based on his or her civilian salary or the average production wage in the state, whichever is greater, if the

member is injured while engaged in military duties. This only applies if the member is unable to perform his or her regular employment duties.

Linking the benefit rate to the production wage means an increase in benefits for injured members whose non-military job pays less than the production wage.

### ***Certain Death Benefits***

The bill eliminates a \$20,000 payment under current law to the beneficiary of a state armed forces member who is killed in the line of duty while in state active service. Under current law, the payment goes to the next of kin if no beneficiary is named.

It also eliminates an obsolete death benefit the legislature enacted in 2005 intended for certain surviving dependents of Connecticut-domiciled armed forces members, including guard members and reservists, who were killed in action or died from illness or accident suffered while deployed and performing active-duty service in Southwest Asia in support of Operation Enduring Freedom (Afghanistan) or Operation Iraqi Freedom (Iraq) between September 11, 2001 and July 1, 2006.

The benefit under current law depends on whether there is a spouse or dependent children. For example, a spouse with no child receives \$50,000 in monthly installments over five years. But current law also specifies that any amount paid will be reduced by the amount paid for any federal death benefit. Since federal death benefits are well above state benefits, this provision is obsolete (see BACKGROUND).

### ***State Employees Serving in the National Guard or Reserves***

For state employees who are reservists or National Guard members who qualify for certain benefits, the bill replaces a list of specific military operations and actions with “military operation, war, or national emergency.” This extends the qualifying criteria for benefits to future operations, wars, and national emergencies.

Under current law, state employees called to federal active-duty service in support of (1) Operation Enduring Freedom, (2) military action against Iraq, (3) Operation Noble Eagle (anti-terrorism actions within the U.S.), (4) federal or state action in support of Operation Liberty Shield or other anti-terrorism efforts in the U.S., and (5) Operation Jump Start (duty at the U.S. and Mexican border) receive up to 30 days' paid leave; payment of the difference between the employee's state pay (including longevity) and his or her military pay after 30 days. They are entitled to other fringe benefits, including continued state health insurance coverage for the employee and any dependents for the duration of active-duty service, as long as the employee continues to make the same insurance payments required before activation.

## **MEMORIALS**

Under current law, cities, towns, or boroughs may place memorials to veteran soldiers, sailors, and marines in state armories and on the ground around the armories, subject to the adjutant general's approval and without cost to the state. The bill specifies that memorials to veterans of the U.S. armed forces may be placed in state military facilities or on state-owned or controlled military property under the same conditions.

## **BACKGROUND**

### **SGLI**

In mid-2005, Servicemembers' Group Life Insurance (SGLI) was \$250,000, but was raised to \$400,000 as of September 1, 2005. SGLI is a U.S. Department of Veterans' Affairs term life insurance plan that provides up to \$400,000 of coverage, in increments of \$10,000, to servicemembers. Coverage of \$400,000 is automatic, but members may decline it or elect reduced coverage, in writing. Proceeds are payable to beneficiaries on the servicemember's death.

## **COMMITTEE ACTION**

Select Committee on Veterans' Affairs

Joint Favorable Substitute Change of Reference

Yea 10 Nay 0 (03/13/2012)

Labor and Public Employees Committee

Joint Favorable

Yea 11 Nay 0 (03/20/2012)